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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,042	02/05/2002	Cory O. Nykoluk	10759-00159	4190

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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08/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/072,042

Applicant(s)

NYKOLUK ET AL.

Examiner

Tri M. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-87 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 47-87 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

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1. Claims 74-85 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure does not teach the embodiment of a locking handle having “at least one arm” with the locking structure as set forth by the claim. The recitation implies that more than one arm. The disclosure only discloses an embodiment with only one arm with the locking structure. This is a new matter rejection.

2. Claims 74-85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term “at least” implies that more than one curved arm. However the disclosure only shows an embodiment with the locking structure with one curved arm.

3. Claims 47-50, 52-64, 66-76, and 78-85 are under 35 U.S.C. 103(a) as being unpatentable over Lu ‘344 in view of Miyoshi (5908093). Lu teaches a towing member having an arm having distal end and proximal end with an axial length, a towing handle 20, a locking mechanism located proximate the handle movable between a locked position and an unlocked position comprising a movable locking element defining a lot at 325 and a locking protrusion 50 extending through the slot, and a release mechanism as claimed.

With respect to the distal end of the arm being otherwise unable to move relative to the distal end. The examiner submits that one can have the towing handle pivotable about one axis

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about the handle as claimed. There is no structural differences between the claimed device and the device in Lu.

With respect to the non extendable portion, it would have been obvious to one of ordinary skill in the art to provide an extendable portion as taught by Miyoshi (Fig. 5, portion 55A) to provide a connection to the luggage.

Regarding claim 21 it is noted that there are two single poles telescoping member as claimed.

Regarding claim 57, note that there is a face facing outward in Lu(adjacent the distal peripheral edge of portion 35).

Regarding claim 57 and 71, note the channels 421 between the locking protrusions.

Regarding claim 63, note that the tube is curved forward as claimed.

Regarding claim 71, note the channels 712 in Lu.

Regarding claim 49, it would have been obvious to one of ordinary skill in the art to provide curved arm portions to enable one to tow the luggage easily.

4. Claim 47-50, 52-64, 66-76, and 78-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lu'344 rejection, as set forth above, and further in view of either Dean (3355075) or Murphy (4368835). To the degree it is argued that the handle in Lu does not teach the outwardly extending handle, either Dean or Lu teaches that it is known in the art to provide back support structures being curved to accommodate the back. It would have been obvious to one of ordinary skill in the art to provide outwardly curved handle as taught by either Dean or Lu to enable one to support the handle on the back when wearing.

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5. Claims 51, 65, 77, 86, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu in view of either Chen '951 or Chen (6434790). Lu meets all claimed limitations except for the single pole handle. Either Chen '951 or Chen '790 teaches that it is known in the art to provide a single pole handle. It would have been obvious to one of ordinary skill in the art to provide single pole handle as taught by either Chen '951 or Chen '790 to save material or manufacture the device easily.

6. Claims 47-60, and 74-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (6591951) in view of Miyoshi, and further in view of either Dean or Lu '344. Chen teaches a towing member having an arm having distal end and proximal end with an axial length, a towing handle 20, a locking mechanism 40 located proximate the handle movable between a locked position and an unlocked position comprising a movable locking element 44 as claimed. Chen meets all claimed limitations except for the non extendable portion. Miyoshi teaches that it is known in the art to provide a non extendable portion. It would have been obvious to one of ordinary skill in the art to provide an non extendable portion as taught by Miyoshi to provide a connection to the luggage.

Regarding claim 58, note locking protrusions 441 forming a channel there between.

With respect to the arm being curved, Dean or Lu teaches that it is known in the art to provide curved Dean or Lu teaches that it is known in the art to provide back support structures being curved for supporting on the back. It would have been obvious to one of ordinary skill in the art to provide outwardly curved handle as taught by either Dean or Lu to enable one to support the handle on the back when wearing.

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Response to Arguments

7. 112 rejections and drawing objections are withdrawn in view of applicant's amendment.
8. New rejections with respect to claims 74-85 has been made with respect to the recitation "at least one curved arm". This limitation imparts new matter since the original disclosure only show the handle with locking structure operational with only one curved arm.

Other arguments are moot in view of new rejections.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai
Primary Examiner
Art Unit 3727

